

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
DIVISION OF INSURANCE
233 RICHMOND STREET
PROVIDENCE, RHODE ISLAND 02903**

CONCISE EXPLANATORY STATEMENT

Insurance Regulation 108 – Auto Body Labor Rate Survey

The Department of Business Regulation (“Department”) hereby adopts Insurance Regulation 108 effective October 2, 2006 and makes this statement in accordance with R.I.G.L. § 42-35-2.3. The Department makes these amendments in order to implement the provisions of R.I.G.L. § 27-29-4.4. The differences between the text of the proposed rule as published in accordance with R.I. Gen. Laws § 42-35-3 and the rule as adopted are:

Section 4(A) – The Department has accepted the comment that the word “compilation” should be changed to “analysis.”

Section 4(B) – The Department has accepted the comment that a definition of Contract Rate should be added.

Section 4(F) – The Department has added a definition of “Group” to clarify that the reports by Group in Sections 6 and 7 refer to NAIC Insurance Groups not groups of unaffiliated insurers.

Section 5 – The Department has accepted the comment that the regulation should be explicit that the list will be posted on the website. The section has also been amended to clarify the meaning of insurance group in accordance with 4(F) above. Finally, a line has been added stating that those insurers who wrote more than 1% in 2005 must comply with the regulation in 2007. This change is necessary because 2006 premium volume data is not available until April 1, 2007 at the earliest.

Section 6 – In accordance with a number of commentators and in light of the recent amendments to Commercial Licensing Regulation 4, the regulation has been changed to alter the dates for the 2006 report and reduce the number of reports due in 2006 to annually as required by law. The Department also adopted the suggestion that the list of shops be set at a specific date.

Section 7 – The Department added two statutory subjects to be included in the report which were inadvertently omitted. The Department adopted a commentator’s suggestion that the statutory word “analysis” be used rather than “review.”

Section 8 – The Department clarified that “substantially similar” means only formatting changes. The Department limited the requirement to notify the auto body shop of a

deficient questionnaire to the 2007 survey. In accordance with a number of commentators, the Department clarified its ability to review rejected questionnaires for appropriateness. The Department also established retention for documents.

Exhibit A – The Department removed the language concerning the notification of deficiencies so that the Questionnaire can be used in all years. The Department adopted the suggestions regarding categories of customers. The Department added language emphasizing the detail of description of documentation to be provided and an indication that auto body shops may be requested to justify their responses to their regulator.

Additional comments were made for which the Department declined to make the suggested changes. Those sections are:

Section 3 – A number of commentators raised the issue of whether the Department had the statutory authority to apply the regulation only to insurers writing more than 1% of four lines of insurance. A strict construction of the statute is that it would apply to no insurers since “motor vehicle liability insurance” is not a line of insurance sold in Rhode Island. The Department believes that the proposed language implements the statutory intent to apply the requirements of the statute to insurers actively writing lines of insurance that require insurers to repair automobiles in conjunction with losses under those policies.

Section 4(E) – The Department has declined the request to exempt carriers insuring specialty line vehicles, solely for the practical purpose of determining premium volume. A mechanism does not exist to efficiently exclude specialty vehicle carriers from the premium volume determination; however, the Department does not philosophically oppose a statutory change that would exclude application of the regulation to those insurers.

Section 4(F) – The Department has declined to make a change to the definition of “Prevailing Auto Body Labor Rate” and has remained with the statutory definition.

Section 6 – The Department has declined to make a change to allow for “surveying” techniques outside of actual submission of a questionnaire to an auto body shop, because the Department believes the intent of the statute is to provide for a standard method which receives actual data from auto body shops. The Department has declined to make a change allowing for surveys of less than all Fully Licensed Auto Body Facilities. The reason for this is that Fully Licensed Auto Body Facilities are, by definition, less than all auto body facilities in Rhode Island, thereby meeting the statutory intent. The Department believes that Fully Licensed Auto Body Facilities will number less than 200 that would make a statistically relevant sampling virtually impossible.

Section 7 – The Department declined to omit subsection (3)(f) as it is required by statute. The Department declined to omit the requirement in subsection 4 that the costs associated with the survey be provided to the Department, as this is well within the Department’s statutory authority in the financial regulation of insurance companies. The Department

further declined one commentator's suggestion that it elaborate with more specifics on an insurers' reasonable compliance with subsection 4. The Department declined to add a section regarding the use of other data in the calculation of labor rates, as it feels that is adequately addressed by the statute. The Department further declined to add language requesting that insurers provide information on rate increases which would be necessary if labor rates were increased, as the Department believes that the statute is clear that insurers are not required to pay the labor rates reported in the questionnaires. Further, nothing prevents an insurer from including potential impacts in response to subsection 4.

Exhibit A – The Department declines the suggestion that auto body shops need not report rates for all categories of customers other than Direct Repair Shops. The statute is very specific and excludes only direct repair shops. The Department declined to require samples of documents be provided to insurers and instead inserted language indicating to the auto body shop that their regulator would be inquiring, if necessary, as to the basis for response. The Department declined to insert language regarding the regulatory action which will be taken for false submission, as that is a matter for the auto body regulator and not the insurance regulator.